

MONTANA LEGISLATIVE HISTORY

Chapter 329 19 75

Bill H 340 S _____

Original bill & history ✓ C

H. Committee on State Admin.

Hearing Date(s) Feb 04 ✓ C

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Date Out _____ C

S. Committee on State Admin.

Hearing Date(s) Mar 12 ✓ C

Mar 19 ✓ C

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Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

1 House BILL NO. 340
2 INTRODUCED BY Shelden Bradley Stoltz
3 Kibbe W. Bach
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE EACH STATE
5 AGENCY TO ADOPT RULES IMPOSING A FEE TO BE PAID BY AN
6 APPLICANT FOR A LEASE, PERMIT, CONTRACT, LICENSE, OR
7 CERTIFICATE WHEN AN AGENCY IS REQUIRED TO COMPILE AN
8 ENVIRONMENTAL IMPACT STATEMENT."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. There is a new R.C.M. section numbered
12 69-6518 that reads as follows:
13 69-6518. Fee may be imposed. (1) Each agency of
14 state government charged with the responsibility of issuing
15 a lease, permit, contract, license, or certificate under any
16 provision of state law may adopt rules prescribing fees
17 which shall be paid by a person, corporation, partnership,
18 firm, association, or other private entity when an
19 application for a lease, permit, contract, license, or
20 certificate will require an agency to compile an
21 environmental impact statement as prescribed by section
22 69-6504, R.C.M. 1947, of the Montana Environmental Policy
23 Act. An agency must determine within thirty (30) days after
24 a completed application is filed whether it will be
25 necessary to compile an environmental impact statement and

1 assess a fee as prescribed by this section. The fee
2 assessed under this section shall only be used to gather
3 data and information necessary to compile an environmental
4 impact statement as defined in the Montana Environmental
5 Policy Act. No fee may be assessed if an agency intends
6 only to file a negative declaration stating that the
7 proposed project will not have a significant impact on the
8 human environment.

9 (2) In prescribing fees to be assessed against
10 applicants for a lease, permit, contract, license, or
11 certificate, as specified in subsection (1), an agency may
12 adopt a fee schedule which may be adjusted depending upon
13 the size and complexity of the proposed project. No fee may
14 be assessed unless the application for a lease, permit,
15 contract, license, or certificate will result in the agency
16 incurring expenses in excess of two thousand five hundred
17 dollars (\$2,500) to compile an environmental impact
18 statement. The maximum fee that may be imposed by an agency
19 shall not exceed two percent (2%) of the cost of
20 constructing a project.

21 (3) No fee as prescribed by this section may be
22 assessed against any person, corporation, partnership, firm,
23 association, or other private entity filing an application
24 for a certificate under the provisions of the Montana
25 Utility Siting Act, Title 70, chapter 3, R.C.M. 1947.

INTRODUCED BILL

-2- HB 340

1 (4) In adopting rules prescribing fees as authorized
2 by this section, an agency shall comply with the provisions
3 of the Montana Administrative Procedure Act, Title 82,
4 chapter 42, R.C.M. 1947.

5 (5) All fees collected under this section shall be
6 deposited in the state general fund. It is the intent of
7 the legislature that the fees derived under this section be
8 appropriated to the agencies for the compilation of
9 environmental impact statements as required by this act.

10 (6) Each agency shall review and revise its rules
11 imposing fees as authorized by this section at least every
12 two (2) years. Furthermore, each agency shall provide the
13 legislature with a complete report on the fees collected
14 prior to the time that a request for an appropriation of
15 those fees is made to the legislature.

-End-

Bob Durken, Veteran of Foreign Wars, stated this bill needs some amending, but with federal standards felt we could correct this bill properly. He further stated that we are not trying to compete with nursing homes, just trying to take advantage of our federal law of 1973. He stated that the Billings area was chosen because of the population of veterans. Several other proponents were introduced, their testimony is attached.

In discussion, the committee brought out the points that some of the people in these veteran nursing homes are just old people. They are helped until they are found a new place to go.

HB 222 - Representative Brand, sponsor, stated this bill is to make the state prison into an historical monument. It would be an accomplishment not only for the state, but for tourists.

Jim Blodgett, deputy warden, stated that they would like to see this delapidated old building become a monument for generations to come. It has been a liability to the state and now with these plans, it could become one of Montana's biggest assets. He stated that the bill was brought out two years before this is to take place simply because they must have the assurance of this project and be able to plan ahead. We feel that the \$1 sale of the land is adequate because the value of the land is a far cry from the value of the prison as an historical site.

Sam Gilluly, former President of the Historical Society, stated that this would be a great attraction for everyone nation-wide. It would be something appreciated for generations to come. (For further testimony, see attached)

Questions were asked by the committee about water rights, acreage etc. Mr. Blodgett stated that they have their own water within the prison and the acreage included what was behind the sandstone walls and a dormitory and work shed were also included.

HB 339 - Representative Menahan, sponsor, wasn't present to testify. Mr. Tom Schneider explained the bill. He stated that it provides for benefits without financing. It provides that for every year of retirement an extra two dollars would be earned and for every year of service an extra dollar would be added.

The testimony of other proponents and opponents are attached.

HB 340 - Representative Sheldon, sponsor, stated that this bill basically is a bill to require environmental impact statements. and no fee shall be assessed unless the application requires a fee greater than \$2500.

Steve Brown, a proponent, stated that this bill is an attempt to give executive branch a break. We can't determine how many statements will be returned each year. He gave some statistics on how many statements were turned in in previous years.

Gary Wicks and Dr. Anderson felt that there is no reason that the public should have to pay for these studies. They felt the costs should be put upon the developers.

Opponents for the bill were Bill Sternhagen and Everett Snortland. They felt that there is no assurance that the slightest provocation would not cause the agencies involved to require "environmental impact statements". It appears to them that if the government requires an impact statement, that government should be prepared to pay for the statement. (For further testimony, see attached)

HB 201 - Representative Johnston moved that we put this bill into a subcommittee. Representative Mular seconded the motion. The motion passed unanimously. Members of the subcommittee will be Representatives Hageman, Teague and Kropp.

HB 222 - Representative Johnston moved to adopt the following amendments: Representative Mular seconded the motion.

Amend the introduced bill, page 1, section 1, line 14.

Following: (\$1)

Insert: "after the prison is vacated by the department of institutions"

The amendments were adopted with a unanimous vote by the committee. Representative O'Connell moved to pass the bill as amended. Representative Mular seconded the motion. The bill passed as amended.

HB 339 - Representative Hageman moved to hold this bill. Representative Kropp seconded the motion. It was unanimous to hold the bill.

HB 340 - Representative Seifert moved to do not pass the bill. Representative Kropp seconded the motion. Representative Mular made a substitute motion to pass the bill. Rep. Hageman seconded. The motion failed. Going with the first motion "do not pass" Representatives Hageman, Brand and Mular voted negative. The vote is do not pass.

The meeting was adjourned at 12:30


Joe Brand, Chairman

TESTIMONY ON HOUSE BILL 340
HOUSE ADMINISTRATION COMMITTEE
Room 433, 10:30 a.m., February 4, 1975

Mr. Chairman, Members of the Committee, my name is Everett Snortland. I am the Executive Legislative Director for the Montana Farm Bureau Federation. We are here this morning for the purpose of opposing HB 340.

In so far as we can tell with other bills that are coming before this legislative body, there is no assurance that the slightest provocation would not cause the agency to require "environmental impact statements". We appreciate the fact that no fee is assessed unless the application for a lease, permit, contract, license, or certificate result in the agency incurring expenses in excess of \$2500. In this day and age it does very much to acquire \$2500 worth of expenses in writing impact statements. It would tell us as though when government requires an impact statement, that government should be prepared to pay for that impact statement. It also should be noted that under our capitalist free-enterprise system of which we hope to retain these costs must be passed on to the consumer. It is difficult for us to appreciate the fact that, by and large, the people who support this type of legislation can be consumer-oriented in attempting to keep costs down, and the fact that there must be a profit in any venture. For there not to be a profit means there will be no jobs available which, consequently, results in a loss of private enterprise and encroachment of further government manipulation and control.

Mr. Chairman, Members of the Committee, we urge you not to concede the principles contained in HB 340. We strongly believe that the principles involved are the responsibilities of government and that if "environmental impact statements" are required by their rules and regulations, they should be the ones that see to it the costs are kept at an absolute minimum for the benefit of the total society.

Mr. Chairman, Members of the Committee, we urge you to not concede HB 340.

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Mr. Chairman, Members of the Committee, we urge you not to concur with the principles contained in HB 340. We strongly believe that the principles involved are the responsibilities of government and that if "environmental impact statements" are required under their rules and regulations, they should be the ones that see to it the costs are kept at an absolute minimum for the benefit of the total society.

Mr. Chairman, Members of the Committee, we urge you to not concur with

Senate; State Admin. March 12 '75

ROLL CALL: All members were present, with the exception of Senator Devine, who was excused.

CONSIDERATION OF HOUSE BILL NO. 282: An act to implement the legislative recommendations of the majority report of the Montana Salary Commission by increasing the compensation of elective officials in the legislative branch, and providing an effective date.

Representative Jack Gunderson, sponsor of the bill, presented a copy of an article which appeared in the Helena Independent Record on Monday, March 10, 1975 regarding this bill (see Exhibit A attached). He explained that this is the legislative pay increase bill, and that the press has made a field day out of the issue. He introduced this bill as a result of the salary commission's recommendations last session, and the House State Administration Committee rewrote the bill, which is the same form that appears in House Bill 282. He said he has a copy of the latest salary commission recommendations if the committee wishes to consult it, and noted that their yearly salary recommendation for legislators is \$55,000. It was originally based on the assumption that we would be in annual sessions. Basically, the bill has four parts.

The first section sets out the pay for pre-session caucus which we have had on the books for a number of years. It raises the salary from \$20 to \$25 per day, and the per diem to \$40 per day. The second section deals with regular and special sessions, and interim committee reports. The third section deals with an extra allowance of \$50 per month for legislative leaders. The fourth section provides \$100 per month for each month the Legislature is not in session to cover miscellaneous expenses, and there is also an effective date.

Mr. Clyde Jarvis, Montana Farmers Union, appeared in support of House Bill 282. A copy of his statement is attached as Exhibit B.

CONSIDERATION OF HOUSE BILL NO. 340: An act to authorize each state agency to adopt rules imposing a fee to be paid by an applicant for a lease, permit, contract, license, or certificate when an agency is required to compile an environmental impact statement.

Mr. Steve Brown, attorney from the Governor's office, stated that Representative Sheldon had introduced this bill at the request of the governor. This bill was considered in 1974, but had been killed in the House. The basic problems

they are attempting to deal with through this bill are two-fold: as far as environmental impact statements go, it is impossible to predict in advance how many major private projects will be triggered within a two-year period. Therefore it is not possible to come to the Legislature to ask for the money they will need to do these statements; the second problem is the philosophical question of who should be made to pay for the environmental analysis that must be done as a result of these major private projects.

House Bill 340 authorizes state agencies to establish, under the Administrative Procedures Act, a fee schedule when those applications will trigger this process. There are safeguards to make sure this can't be abused. It only covers the projects in excess of \$2500 for the environmental analysis. It also specifies that the maximum fee could not exceed two percent of the cost of the proposed project. The exclusion of any facility covered by the Montana Utility Citing Act is included. Mr. Brown pointed out that that Act does also provide for a filing fee. The bill also clearly indicates that the Legislature would have the final authority to appropriate this money to the agencies.

Mr. Ted Doney, Department of Natural Resources and Conservation legal counsel, also appeared in support of House Bill 340. He said that in most of the cases where they do environmental impact statements, water rights applications and timber sales are concerned. There are many people who are waiting for permits, according to Mr. Doney, and they are unable to issue them because they have not had the money or the time to do the environmental impact statements. In one instance where they completed such a statement, the cost amounted to \$15,000, and their agency absorbed the entire cost. The question here is who should pay: the applicant or the people of Montana.

Mr. Ward Shanahan, Dreyer Brothers Inc., stated that he supports House Bill 340 with the amendments proposed (see Exhibit C attached). He thinks the burden of payment should be put into the proper perspective. He noted that there are several bills pending which would require private enterprises to pay cost such as environmental impact statements, and some of them he does not object to. What he has done in his amendments is to put it under the environmental policy act. In that way, state agencies will not be adopting different policies on a piecemeal basis, and competing for the money and the limelight. He went on to explain his proposed amendments to the committee.

Dr. John Anderson, State Department of Health and Environmental Sciences, appeared as a proponent of House Bill 340. He pointed out that most of the environmental impact statements

that way, state agencies will not be adopting different policies on a piecemeal basis, and competing for the money and the limelight. He went on to explain his proposed amendments to the committee.

Dr. John Anderson, State Department of Health and Environmental Sciences, appeared as a proponent of House Bill 340. He pointed out that most of the environmental impact statements done are through his agency. He quoted some figures on three of these statements, and stated that these take in such costs as personnel, legal counsel, instrumentation, and printing. He also noted that the percentage of the cost of these impact statements in relation to the total projects ranged from .34% to .45%, or less than one percent in each case.

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Mr. Les Loble appeared as an opponent of House Bill 340. He said that he feels the same frustration that Mr. Shanahan mentioned when the Legislature has mandated that these environmental impact statements be done, and then they put the blame back on the applicant because he is causing it to be filed. He explained that he had been involved in the Prickley Pear water adjudication, and said that a group of farmers were forced to pay a \$15,000 application fee in order to keep from going out of business if the Prickley Pear Creek was allowed to dry up and they lost their water rights. He pointed out that this not only affects large industries, but will reach to the smaller people as well, and they may not be able to afford paying the price of such fees.

Mr. Langey MacDonald, the Anaconda Co., stated that the bill will affect them, and they oppose it. It is a question of philosophy. The agencies are making it a rule to have such environmental impact statements, and then ask them to pay for it as well. He pointed out the Environmental Policy Act, in which 69-6504 sets forth general directions to the state agencies. These directions are so vague that the agencies can do almost anything they want. He does not feel this is an equitable bill.

Mr. Everett Snortland, Montana Farm Bureau, also opposed House Bill 340. He pointed out that the threshold portion of that bill which says you do not have to pay the statement if the cost is less than \$2500 will have to be amended by the Legislature time and time again because of inflation. He opposes the philosophy of the bill because he feels it should be the duty of the government who requires this to take on the responsibility of financing it.

Mr. Bill Kirkpatrick appeared as another opponent of House Bill 340. He pointed out that if the Legislature does appropriate money for environmental impact statements, it will not do any good if it goes to the general fund and not earmarked for a special fund. He also feels that these statements are required by the public for the public benefit and protection. Therefore, the taxpayer should pay for it.

Mr. Steve Brown was then allowed to make a few closing remarks. He agrees with Mr. Shanahan that the state agencies did have the work load, but now all of a sudden they are required not only to decide the environmental impacts, but the social and economic impacts as well. In addition, they are to go beyond the primary impacts and consider the secondary impacts as well. MEPA was passed in 1971, before he came to work in his present capacity, and he is in a position where he must enforce this law. It is becoming more and more difficult to

any good if it goes to the general fund and not earmarked for a special fund. He also feels that these statements are required by the public for the public benefit and protection. Therefore, the taxpayer should pay for it.

Mr. Steve Brown was then allowed to make a few closing remarks. He agrees with Mr. Shanahan that the state agencies did have the work load, but now all of a sudden they are required not only to decide the environmental impacts, but the social and economic impacts as well. In addition, they are to go beyond the primary impacts and consider the secondary impacts as well. MEPA was passed in 1971, before he came to work in his present capacity, and he is in a position where he must enforce this law. It is becoming more and more difficult to do a good job of analyzing all of these things. He asked the question whether the people of the Colstrip area should be made to pay 1 million dollars for an impact statement that would tell them how much additional they will need to spend to meet the growing needs of their community.

Exhibit C

PROPOSED AMENDMENT TO HB 340

Chairman Groely and Members of the State Administration
Committee of the Montana State Senate:

We respectfully propose to amend HB 340 as follows:

1. On Page One, line 22 following the word "Act"
delete the period, insert a comma and add the
following words and punctuation:

"...or other applicable statute."

2. On Page Two, following the word "exceed" on line 19
strike the remaining language on lines 19 and 20 and
insert in lieu thereof the following:

"three percent (3%) of any estimated cost up to
one million dollars (\$1,000,000.00); plus one
percent (1%) of any estimated cost over a million
dollars and up to twenty million dollars (\$20,000,000.00);
plus one-half of one per cent (0.5%) of any est-
imated cost over twenty million dollars and up to
one hundred million dollars (\$100,000,000.00); plus
one-quarter of one per cent (0.25%) of any est-
imated cost over one hundred million dollars and
up to three hundred million dollars (\$300,000,000.00);
plus one-tenth of one percent (0.1%) of any estimated
cost in excess of three hundred million dollars. If an
application consists of two or more facilities the
filing fee shall be based on the total estimated cost
of the combined facilities. The estimated cost shall
be determined by the agency and the applicant at the
time the application is filed."

3. On Page Two strike all language beginning on line 21 and
ending on line 23, and insert the following:

"(3) No agency may assess a fee for the preparation
of an environmental impact statement, other than
as provided in this section. An agency may contract

application consists of two or more facilities the filing fee shall be based on the total estimated cost of the combined facilities. The estimated cost shall be determined by the agency and the applicant at the time the application is filed."

3. On Page Two strike all language beginning on line 21 and ending on line 23, and insert the following:

"(3) No agency may assess a fee for the preparation of an environmental impact statement, other than pursuant to this section. An agency may contract with a potential applicant, in advance of filing an application for the provision of services appropriate to the needs of the agency and the potential applicant. Payments made to the agency under such a contract shall be credited to the fee payable hereunder."

4. On page Three line 6 delete the words "general fund" and insert in lieu thereof the words "earmarked revenue fund as provided in R.C.M. 1947 Section 79-410."
5. On page Three line 6 delete the balance of Section 5 ending on line 9 and insert in lieu thereof the following language:

"All fees paid pursuant to this section shall be used as herein provided and each agency upon completion of the necessary work will make an accounting to the applicant of the funds expended and refund all unexpended funds without interest."

6. On page Three at line 10 renumber existing subparagraph six as subparagraph (7) and insert a new subparagraph (6) as follows:

governor "In cases where a combined facility proposed by an applicant requires action by more than one agency or multiple applications for the same facility. The ~~Environmental Quality Council~~ shall designate a lead agency to collect one fee pursuant to this section and coordinate the preparation of all information required for all environmental impact statements which may be required, and to allocate and disburse the funds necessary to the other agencies which require funds for the completion of the necessary work."

7. On page Three line 14 and 15 following the word "appropriation" delete the words "of those fees".

And as so amended Do PASS

Following: line 15

Senate: State Admin. March 19 '75

Insert: "(2) In this section, as it applies to a person employed in the executive or legislative branches of state government, "employee" means:

(a) a permanent full-time employee as defined in section 59-1007.1;

(b) a part-time employee as defined in section 59-1007.1 who is scheduled to work at least twenty (20) hours per week;

(c) a person employed in a seasonal position as defined in section 59-1007.1 who is employed on a regular basis at least eight (8) months of the fiscal year."

The motion carried unanimously. Senator Roskie then made motion that House Bill 607 BE CONCURRED IN AS AMENDED. The motion carried.

HOUSE BILL NO. 155: Senator Greely presented some amendments for the committee's consideration (see Exhibit B attached), which were the result of the subcommittee meeting on House Bill No. 155.

Senator Rosell made a motion that the amendments to House Bill 155 be adopted. The motion carried unanimously.

Senator Roskie then made a motion that House Bill 155 BE CONCURRED IN AS AMENDED. The motion carried.

HOUSE BILL NO. 340: Senator Jergeson made a motion that House Bill 340 be amended as follows:

. Amend page 2, section 1, lines 19 through 20.

Following: "(2%) of"

Strike: "the cost of constructing a project"

Insert: "any estimated cost up to one million dollars (\$1,000,000); plus one percent (1%) of any estimated cost over one million dollars (\$1,000,000) and up to twenty million dollars (\$20,000,000); plus one-half of one percent (1/2 of 1%) of any estimated cost over twenty million dollars (\$20,000,000) and up to one hundred million dollars (\$100,000,000); plus one-quarter of one percent (1/4 of 1%) of any estimated cost over one hundred million dollars (\$100,000,000) and up to three hundred million dollars (\$300,000,000); plus one-eighth of one percent (1/8 of 1%) of any estimated cost in excess of three hundred million dollars (\$300,000,000). If an application consists of two (2) or more facilities, the filing fee shall be based on the total estimated cost of the combined facilities. The estimated cost shall be determined by the agency and the applicant at the time the application is filed"

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2. Amend page 3, section 1, lines 6 through 9.

Following: "state"

Strike: "general fund. It is the intent of the legislature that the fees derived under this section be appropriated to the agencies for the compilation of environmental impact statements as required by this act"

Insert: "earmarked revenue fund as provided in R.C.M. 1947, Section 79-410. All fees paid pursuant to this section shall be used as herein provided and each agency upon completion of the necessary work will make an accounting to the applicant of the funds expended and refund all unexpended funds without interest"

3. Amend page 3, section 1, line 9.

Following: line 9

Insert: "(6) In cases where a combined facility proposed by an applicant requires action by more than one agency or multiple applications for the same facility, the governor shall designate a lead agency to collect one fee pursuant to this section, to coordinate the preparation of information required for all environmental impact statements which may be required, and to allocate and disburse the funds necessary to the other agencies which require funds for the completion of the necessary work."

Renumber: Subsequent subsection

4. Amend page 3, section 1, lines 14 and 15.

Following: "appropriation"

Strike: "of those fees"

The motion carried. Senator Jergeson then made a motion that House Bill 340 BE CONCURRED IN AS AMENDED. The motion carried.

HOUSE BILL NO. 282: Senator Greely made a motion that House Bill 282 be amended as follows:

1. Amend page 2, section 1, line 8.

Following: "business"

Insert: "."

2. Amend page 4, section 5, line 25.

Following: "This"

Insert: "act is effective for pre-session caucuses engaged in by members of the 45th Legislature. In all other affects, this"

carried unanimously. Senator Rosell made

PRESIDENT:.....

We, your committee on.....**STATE ADMINISTRATION**.....

ing had under consideration**HOUSE**..... Bill No. **340**.....

respectfully report as follows: That.....**HOUSE**..... Bill No. **340**,...
third reading bill, be amended as follows:

1. Amend page 2, section 1, lines 19 through 20.

Following: "(2%) of"

Strike: "the cost of constructing a project"

Insert: "any estimated cost up to one million dollars (\$1,000,000); plus one percent (1%) of any estimated cost over one million dollars (\$1,000,000) and up to twenty million dollars (\$20,000,000); plus one-half of one percent (1/2 of 1%) of any estimated cost over twenty million dollars (\$20,000,000) and up to one hundred million dollars (\$100,000,000); plus one-quarter of one percent (1/4 of 1%) of any estimated cost over one hundred million dollars (\$100,000,000) and up to three hundred million dollars (\$300,000,000); plus one-eighth of one percent (1/8 of 1%) of any estimated cost in excess of three hundred million dollars (\$300,000,000). If an application consists of two (2) or more facilities, the filing fee shall be based on the total estimated cost of the combined facilities. The estimated cost shall be determined by the agency and the applicant at the time the application is filed"

~~XXXXXX~~

(cont'd)

Amendments to: HOUSE BILL NO. 349

By: Senate State Administration Committee

March 19, 1975

Page 2

2. Amend page 3, section 1, lines 6 through 9.

Following: "state"

Strike: "general fund. It is the intent of the legislature that the fees derived under this section be appropriated to the agencies for the compilation of environmental impact statements as required by this act"

Insert: "earmarked revenue fund as provided in R.C.M. 1947, Section 79-410. All fees paid pursuant to this section shall be used as herein provided and each agency upon completion of the necessary work will make an accounting to the applicant of the funds expended and refund all unexpended funds without interest"

3. Amend page 3, section 1, line 9.

Following: line 9

Insert: "(6) In cases where a combined facility proposed by an applicant requires action by more than one ~~the~~ agency or multiple applications for the same facility, the governor shall designate a lead agency to collect one ~~the~~ fee pursuant to this section, to coordinate the preparation of information required for all environmental impact statements which may be required, and to allocate and disburse the funds necessary to the other agencies which require funds for the completion of the necessary work."

Renumber: Subsequent subsection

4. Amend page 3, section 1, lines 14 and 15.

Following: "appropriation"

Strike: "of those fees"

AND AS SO AMENDED, BE CONCURRED IN

SENATOR MIKE GREELY, Chairman

March 20, 1975

SENATE COMMITTEE ON STATE ADMINISTRATION

AMENDMENTS TO HOUSE BILL NO. 340

That House Bill No. 340, third reading, be amended as follows:

1. Amend page 2, section 1, lines 19 through 20.
Following: "(2%) of"
Strike: "the cost of constructing a project"
Insert: "any estimated cost up to one million dollars (\$1,000,000); plus one percent (1%) of any estimated cost over one million dollars (\$1,000,000) and up to twenty million dollars (\$20,000,000); plus one-half of one percent (1/2 of 1%) of any estimated cost over twenty million dollars (\$20,000,000) and up to one hundred million dollars (\$100,000,000); plus one-quarter of one percent (1/4 of 1%) of any estimated cost over one hundred million dollars (\$100,000,000) and up to three hundred million dollars (\$300,000,000); plus one-eighth of one percent (1/8 of 1%) of any estimated cost in excess of three hundred million dollars (\$300,000,000). If an application consists of two (2) or more facilities, the filing fee shall be based on the total estimated cost of the combined facilities. The estimated cost shall be determined by the agency and the applicant at the time the application is filed"
2. Amend page 3, section 1, lines 6 through 9.
Following: "state"
Strike: "general fund. It is the intent of the legislature that the fees derived under this section be appropriated to the agencies for the compilation of environmental impact statements as required by this act"
Insert: "earmarked revenue fund as provided in R.C.M. 1947, Section 79-410. All fees paid pursuant to this section shall be used as herein provided and each agency upon completion of the necessary work will make an accounting to the applicant of the funds expended and refund all unexpended funds without interest"
3. Amend page 3, section 1, line 9.
Following: line 9
Insert: "(6) In cases where a combined facility proposed by an applicant requires action by more than one (1) agency or multiple applications for the same facility, the governor shall designate a lead agency to collect one (1) fee pursuant to this section, to coordinate the preparation of information required for all environmental impact statements which may be required, and to allocate and disburse the funds necessary to the other agencies which require funds for the completion of the necessary work."
Renumber: Subsequent subsection
4. Amend page 3, section 1, lines 14 and 15.
Following: "appropriation"
Strike: "of those fees"

HOUSE BILL NO. 340

INTRODUCED BY SHELDEN, BRADLEY, STOLTZ, KIMBLE, W. BAETH

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE EACH STATE AGENCY TO ADOPT RULES IMPOSING A FEE TO BE PAID BY AN APPLICANT FOR A LEASE, PERMIT, CONTRACT, LICENSE, OR CERTIFICATE WHEN AN AGENCY IS REQUIRED TO COMPILE AN ENVIRONMENTAL IMPACT STATEMENT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new R.C.M. section numbered 69-6518 that reads as follows:

69-6518. Fee may be imposed. (1) Each agency of state government charged with the responsibility of issuing a lease, permit, contract, license, or certificate under any provision of state law may adopt rules prescribing fees which shall be paid by a person, corporation, partnership, firm, association, or other private entity when an application for a lease, permit, contract, license, or certificate will require an agency to compile an environmental impact statement as prescribed by section 69-6504, R.C.M. 1947, of the Montana Environmental Policy Act. An agency must determine within thirty (30) days after a completed application is filed whether it will be necessary to compile an environmental impact statement and

assess a fee as prescribed by this section. The fee assessed under this section shall only be used to gather data and information necessary to compile an environmental impact statement as defined in the Montana Environmental Policy Act. No fee may be assessed if an agency intends only to file a negative declaration stating that the proposed project will not have a significant impact on the human environment.

(2) In prescribing fees to be assessed against applicants for a lease, permit, contract, license, or certificate, as specified in subsection (1), an agency may adopt a fee schedule which may be adjusted depending upon the size and complexity of the proposed project. No fee may be assessed unless the application for a lease, permit, contract, license, or certificate will result in the agency incurring expenses in excess of two thousand five hundred dollars (\$2,500) to compile an environmental impact statement. The maximum fee that may be imposed by an agency shall not exceed two percent (2%) of ~~the---cost---of constructing-a-project.~~ ANY ESTIMATED COST UP TO ONE MILLION DOLLARS (\$1,000,000); PLUS ONE PERCENT (1%) OF ANY ESTIMATED COST OVER ONE MILLION DOLLARS (\$1,000,000) AND UP TO TWENTY MILLION DOLLARS (\$20,000,000); PLUS ONE-HALF OF ONE PERCENT (1/2 OF 1%) OF ANY ESTIMATED COST OVER TWENTY MILLION DOLLARS (\$20,000,000) AND UP TO ONE HUNDRED MILLION DOLLARS

(\$100,000,000); PLUS ONE-QUARTER OF ONE PERCENT (1/4 OF 1%)
OF ANY ESTIMATED COST OVER ONE HUNDRED MILLION DOLLARS
(\$100,000,000) AND UP TO THREE HUNDRED MILLION DOLLARS
(\$300,000,000); PLUS ONE-EIGHTH OF ONE PERCENT (1/8 OF 1%)
OF ANY ESTIMATED COST IN EXCESS OF THREE HUNDRED MILLION
DOLLARS (\$300,000,000). IF AN APPLICATION CONSISTS OF TWO
(2) OR MORE FACILITIES, THE FILING FEE SHALL BE BASED ON THE
TOTAL ESTIMATED COST OF THE COMBINED FACILITIES. THE
ESTIMATED COST SHALL BE DETERMINED BY THE AGENCY AND THE
APPLICANT AT THE TIME THE APPLICATION IS FILED.

(3) No fee as prescribed by this section may be assessed against any person, corporation, partnership, firm, association, or other private entity filing an application for a certificate under the provisions of the Montana Utility Siting Act, Title 70, chapter 3, R.C.M. 1947.

(4) In adopting rules prescribing fees as authorized by this section, an agency shall comply with the provisions of the Montana Administrative Procedure Act, Title 32, chapter 42, R.C.M. 1947.

(5) All fees collected under this section shall be deposited in the state ~~general fund--it is--the--intent--of~~
~~the--legislature--that--the--fees--derived--under--this--section--be~~
~~appropriated--to--the--agencies--for--the--compilation--of~~
~~environmental--impact--statements--as--required--by--this--act.~~
 earmarked revenue fund as provided in section 79-410, R.C.M.

1947. ALL FEES PAID PURSUANT TO THIS SECTION SHALL BE USED
AS HEREIN PROVIDED AND EACH AGENCY UPON COMPLETION OF THE
NECESSARY WORK WILL MAKE AN ACCOUNTING TO THE APPLICANT OF
THE FUNDS EXPENDED AND REFUND ALL UNEXPENDED FUNDS WITHOUT
INTEREST.

(6) IN CASES WHERE A COMBINED FACILITY PROPOSED BY AN APPLICANT REQUIRES ACTION BY MORE THAN ONE (1) AGENCY OR MULTIPLE APPLICATIONS FOR THE SAME FACILITY, THE GOVERNOR SHALL DESIGNATE A LEAD AGENCY TO COLLECT ONE (1) FEE PURSUANT TO THIS SECTION, TO COORDINATE THE PREPARATION OF INFORMATION REQUIRED FOR ALL ENVIRONMENTAL IMPACT STATEMENTS WHICH MAY BE REQUIRED, AND TO ALLOCATE AND DISBURSE THE FUNDS NECESSARY TO THE OTHER AGENCIES WHICH REQUIRE FUNDS FOR THE COMPLETION OF THE NECESSARY WORK.

~~(6)~~ (7) Each agency shall review and revise its rules imposing fees as authorized by this section at least every two (2) years. Furthermore, each agency shall provide the legislature with a complete report on the fees collected prior to the time that a request for an appropriation of ~~those fees~~ is made to the legislature.

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